

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

ATTORNEY GENERAL'S THIRD SET OF DOCUMENT AND
INFORMATION REQUESTS

D.T.E. 06-54

Respondent: Counsel

Date: September 28, 2006

Information Request AG-3-4

Q. Please provide copies of any and all orders and directives issued by the Department of Telecommunications and Energy, and communications (including written, oral, and electronic) with the Department that acknowledge the use of a peak-hour planning or resource acquisition standard. If the Company cannot provide copies, explain why not and identify those orders, directives, and communications that the Company cannot produce.

A. Under the first part of the Department's two-part standard for the acquisition of gas resources, the Company must demonstrate that:

[A]t the time of the acquisition or contract renegotiation, the transaction: (1) is consistent with the company's portfolio objectives; and (2) compares favorably to the range of alternatives reasonably available to the company and its customers, including releasing capacity to customers migrating to transportation.

Commonwealth Gas Company, D.P.U 94-174-A at 27 (1996). It is well-established that, under Department practice and precedent, the phrase "consistent with the company's portfolio objectives" is interpreted to mean that the resources are (1) needed to meet customer requirements; and (2) provides benefits in terms of the reliability, diversity and flexibility of the overall resource portfolio. Under well-established Department precedent, a petitioner can make this showing in three ways: (a) by referring to the portfolio objectives established in a recently approved forecast and requirements plan, or (b) by referring to the objectives established in a recent review of supply contracts under Section 94A, or (c) by describing its objectives in the filing accompanying the resource proposal. Id.

Under this standard for *contract approval*, the Company is not in anyway limited to the design season and design day standard that is traditionally evaluated as part of the Department's review of *long-range resource and requirements plans*,

which is a more specific inquiry that represents only one of the options for justifying a resource acquisition.

The reality is that the Company's peak hourly flow capabilities are limited by contract and these contractual provisions are unavoidable from KeySpan's perspective because they are (appropriately) imposed by the pipelines on all shippers for the purpose of managing their interstate pipeline system on a reliable and orderly basis. Typically, the Company's peak-hour flow capabilities coincide directly with the design-day capacity requirements, therefore, the peak-hour requirements are covered by virtue of the design-day analysis and resource provisions. To the extent that there is any slight mismatch between the design day capability and the peak hour capability, flexibility may exist on the pipeline where the pipeline is not strictly constrained on the peak hour, and therefore, it is not necessary for the Company to procure additional design day capacity for that purpose. On the Cape, the Company is dealing with a very unique system that relies on strictly constrained Algonquin G Lateral resources. Therefore, it is imperative that the Company include peak hour capability as a dimension of the need analysis, where there is a gap between design day capability and peak-hour capability. Nothing in the Department's standard for contract approval precludes this type of analysis, nor would prudent management of the system dictate otherwise.

Moreover, this case is not the first case where the Company has indicated to the Department that peak hourly flow requirements are a factor in a planned resource acquisition. Specifically, one of the stated justifications for the Company's Hubline contract was the need for additional peak-hour capability on the Algonquin system, which again, is more constrained than other pipeline facilities utilized by the Company. Attached is the testimony of Elizabeth (Danehy) Arangio, Exhibit ECD-1, at page 12-13, submitted in KeySpan Energy Delivery, D.T.E. 02-18 (2003). This testimony notes the peak hourly flow constraints experienced by the Company and the fact that operational flow restrictions placed on KeySpan by Algonquin during the winter season were inhibiting the operating flexibility of the system. Also attached is the Department's order approving that contract.